

REMARKS

The present Amendment amends claims 22-32. Therefore, the present application has pending claims 22-32.

Claims 23, 28 and 31 stand rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention. Various amendments were made throughout claims 23, 28 and 31 to bring them into conformity with the requirements of 35 USC §112, second paragraph. Therefore, Applicants submit that this rejection is overcome and should be withdrawn.

Specifically, amendments were made to claims 23, 28 and 31 to overcome the objections noted by the Examiner in paragraph 3 of the Office Action.

The Examiner's cooperation is respectfully requested to contact Applicants' Attorney by telephone should any further indefinite matters be discovered so that appropriate amendments may be made.

Claim 24 stands objected to due to informalities noted by the Examiner in paragraph 5 of the Office Action. Amendments were made to claim 24 to correct the informalities noted by the Examiner. Therefore, this objection is overcome and should be withdrawn.

Claims 22, 26, 29 and 32 stand rejected under 35 USC §102(e) as being anticipated by Downs (U.S. Patent No. 6,226,618). This rejection is traversed for the following reasons. Applicants submit that the features of the present invention as recited in claims 22, 26, 29, and 32 are not taught or suggested by Downs whether taken individually or in combination with any of the other references of record.

Therefore, Applicants respectfully request the Examiner to reconsider and withdraw this rejection.

Amendments were made to claims 22, 26, 29 and 32 so as to more clearly describe features of the present invention. Particularly, amendments were made to these claims to more clearly recite that the present invention is directed to a digital contents distribution method, system, computer program and program file in which digital contents are distributed according to distribution scheduling which is generated as a result of determining that the stores or the vending devices do not have saved therein digital contents selected by customers. Thus, the present invention attempts to provide an orderly transmission and storage of selected digital content into the vending devices so as to satisfy the requests by customers selecting such digital contents from the vending devices. By use of the present invention unnecessary communications on the network connecting the vending devices and distributions centers can be avoided by scheduling such distributions at particular times such as, for example, when traffic is low on the network.

The above described features of the present invention now more clearly recited in the claims are not taught or suggested by Downs. Downs merely discloses the secure distribution of digital content purchased by a user utilizing cryptography. Applicants find absolutely no teaching or suggestion in Downs of any method which is conducted so as to perform the orderly distribution by use of a schedule and storage of digital contents into vending devices which have been determined to be empty of the digital content selected by customers operating the vending devices. There is no teaching in Downs of the generation of a distribution schedule when

selected digital contents is not saved in the vending devices (stores) nor the distribution of the selected digital contents to the vending devices (stores) based on the distribution schedule.

Therefore, Downs fails to teach or suggest selecting digital contents corresponding to each of a plurality of stores selling the digital contents, when the selected digital contents is not saved in the stores, and generating a distribution schedule for controlling distribution of the digital contents corresponding to the stores as recited in the claims.

Further, Downs fails to teach or suggest instructing distribution of the digital contents to each of the stores according to the distribution schedule as recited in the claims.

Therefore, Applicants respectfully request the Examiner to reconsider and withdraw the 35 USC §102(e) rejection of claims 22, 26, 29 and 32 as allegedly being anticipated by Downs.

Claims 25, 27 and 30 stand rejected under 35 USC §102(e) as being anticipated by Poggio (EP No. 0809221 A2). This rejection is traversed for the following reasons. Applicants submit that the features of the present invention as now recited in claims 25, 27 and 30 are not taught or suggested by Poggio whether taken individually or in combination with any of the other references of record. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw this rejection.

The present invention as now more clearly recited in claims 25, 27 and 30 is directed to a digital contents distribution method, system and computer program in

which sales information of digital contents sold to customers via a plurality of stores is collected from the stores, numbers of each of the digital contents sold via the stores during a predetermined period is calculated based on the sales information, and a total number of digital contents sold for each digital contents holder that licenses digital contents to the stores is calculated. Further, according to the present invention a fee is sent to the digital contents holder corresponding to the total number of digital contents sold via the stores for each of the digital contents holders.

Thus, according to the present invention, the digital contents distribution method, system and computer program of the present invention recited in claims 25, 27 and 30 tracks the amount of sales of digital contents in stores and attempts to provide license fees, corresponding to the sales, to the digital contents holders. Such features are clearly not taught or suggested by Poggio. Poggio teaches a system and method for managing the distribution, licensing and rental of electronic data. Poggio teaches that licenses for electronic data are distributed upon receiving payment of the license fee from a customer. However, at no point is there is any teaching or suggestion in Poggio that information regarding the total number of digital contents being sold with respect to digital content held by digital contents holders and that a fee corresponding to such sales is sent to the digital contents holders as recited in the claims of the present application.

Therefore, Poggio fails to teach or suggest collecting from a plurality of stores sales information of digital contents sold to customers via the stores and calculating numbers of each of the digital contents sold via the stores during a predetermined period based on the collected sales information as recited in the claims.

Further, Poggio fails to teach or suggest calculating a total number of the digital contents sold for each digital contents holder that licenses digital contents to the stores and sending to the digital contents holders a fee corresponding to the total number of the digital contents sold via the stores for each of the digital contents holders as recited in the claims.

Therefore, the Examiner is respectfully requested to reconsider and withdraw the 35 USC §102(e) rejection of claims 25, 27 and 30 as allegedly being anticipated by Poggio.

Claim 24 stands rejected under 35 USC §103(a) as being unpatentable over Downs in view of Escallon (U.S. Patent No. 5,799,157) and Poggio. This rejection is traversed for the following reasons. Applicants submit that the features of the present invention as recited in claim 24 are not taught or suggested by Downs, Escallon or Poggio whether taken individually or in combination with each other as suggested by the Examiner. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw this rejection.

Being that claim 24 depends from claim 22, the same arguments presented above with respect to claim 22 and Downs apply as well to the use of the Downs to reject claim 24. Thus, Applicants submit that the features of the present invention as recited in claim 24 to the extent that it depends from claim 22 are not taught or suggested by Downs.

The above noted deficiencies of Downs are not supplied by any of the other references particularly Escallon and Poggio. Therefore, the combination of Downs,

Escallon and Poggio still fails to teach or suggest the features of the present invention as now recited in the claims.

Amendments were made to claim 24 so as to more clearly describe features of the present invention. Particularly, amendments were made to claim 24 so as to more clearly describe that the present invention is directed to confirming whether or not the digital contents has been generated without error rather than checking for the presence or absence of a license for the digital contents.

Poggio is apparently relied upon by the Examiner for an alleged operation of checking whether or not a license is available for digital content being sold. However, as noted above, the features of the present invention as recited in claim 24 are not directed to whether a license is present but whether the content has been properly generated.

Therefore, the features of the present invention as recited in claim 24 are not taught or suggested by Downs, Escallon or Poggio whether taken individually or in combination with each other as suggested by the Examiner.

Accordingly, reconsideration and withdrawal of the rejection of claim 24 under 35 USC §103(a) as being unpatentable over Downs, Escallon and Poggio is respectfully requested.

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references utilized in the rejection of claims 22-32.

In view of the foregoing amendments and remarks, Applicants submit that claims 22-32 are in condition for allowance. Accordingly, early allowance of claims 22-32 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (500.38037X00).

Respectfully submitted,

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